

## **DOMESTIC RELATIONS COMMITTEE**

Meeting Minutes

December 2, 2011

State Courts Building

1501 W. Washington, Phoenix, Arizona

Conference Room 119 A/B

### **MEMBERS PRESENT:**

Honorable Linda Gray

Honorable Lela Alston

Theresa Barrett

Honorable Michael Bluff

Sidney Buckman - *telephonic*

Daniel Cartagena - *telephonic*

Honorable Mary Ellen Dunlap - *telephonic*

William Fabricius - *telephonic*

Todd Franks - *telephonic*

Grace Hawkins

Honorable Katie Hobbs

Honorable Peggy Judd

Ella Maley - *telephonic*

Donnalee Sarda

David Weinstock - *telephonic*

Steve Wolfson

Brian Yee

Honorable Wayne Yehling

### **MEMBERS ABSENT:**

Jack Gibson

Danette Hendry

David Horowitz

Honorable Leah Landrum Taylor

Patti O'Berry

Honorable Terri Proud

Ellen Seaborne

Russell Smolden

### **GUESTS:**

Amy Love

Kay Radwanski

Barbara Guenther

Katy Proctor

Ingrid Garvey

Don Vert

Lindsay Simmons

Administrative Office of the Courts

Administrative Office of the Courts

Arizona State Senate

Arizona State Senate

Arizona House of Representatives

Maricopa County Clerk's Office

Arizona Coalition Against Domestic Violence

### **STAFF:**

Kathy Sekardi

Tama Reily

Administrative Office of the Courts

Administrative Office of the Courts

### **CALL TO ORDER**

With a quorum present, the December 2, 2011, meeting of the Domestic Relations Committee (DRC) was called to order by Senator Linda Gray, Co-Chair, at 10:06 a.m.

## **APPROVAL OF MINUTES**

The draft minutes of the October 21, 2011, DRC meeting were presented for approval. Sid Buckman observed a grammatical error on page two of the minutes. Judge Wayne Yehling requested a correction to indicate he was telephonically present at the meeting.

**MOTION:** To approve the minutes of the October 21, 2011, DRC meeting with corrections as discussed.  
**SECOND:** Motion seconded.  
**VOTE:** Approved unanimously.

## **A.R.S. § 25-320(D)(3): CHILD SUPPORT FACTOR – STANDARD OF LIVING OF CHILD**

Senator Gray discussed a proposed amendment to strike A.R.S. § 25-320(D)(3) that currently states “3. *The standard of living the child would have enjoyed had the marriage not been dissolved.*” The proposal stems from the concern that it is difficult to maintain the same standard of living in two households post-dissolution and that the current language sets up an impossible standard for most people. Lengthy discussion followed. Some members pointed out that the provision is intended for use by the Supreme Court when developing the child support guidelines, specifically, as one relevant factor to consider when deviating from the guidelines, versus use by family court judges to determine an amount for child support. Some members agreed that modifying the language, particularly removing reference to the standard of living during the marriage, would be helpful in preventing confusion about the aim of the provision. Other members asserted that striking this language will adversely affect the Supreme Court’s ability to promulgate the child support guidelines because the court needs econometric data as a starting point. Todd Franks, Judge Michael Bluff, and Steve Wolfson will work together to develop modified language to bring before the committee at the next DRC meeting.

## **A.R.S. §§ 25-681 AND 25-685: CHILD SUPPORT OR SPOUSAL SUPPORT ARREST WARRANT**

Don Vert, Manager of Family Court Services, Maricopa County Clerk’s Office, and member of the Child Support Committee’s Statute Review Workgroup, presented the workgroup’s proposed amendments to A.R.S. §§ 25-681 and 25-685. The changes would allow spousal support arrest warrants to remain in effect until executed or extinguished by the court, just like child support arrest warrants. Presently, spousal support warrants expire after 12 months. Commissioner Yehling commented that the current statute references section 25-502, which pertains strictly to child support, and recommended including language specific to spousal support. Mr. Vert added that sponsorship for the proposal is being sought. Ms. Barrett made the following motion:

**MOTION:** Theresa Barrett moved to support proposed changes to A.R.S. § 25-681 and A.R.S. § 25-685 with revision as discussed.  
**SECOND:** Motion seconded by Rep. Hobbs.  
**VOTE:** Approved unanimously.

Senator Gray agreed to sponsor the bill.

### **SUBSTANTIVE LAW/COURT PROCEDURES WORKGROUP REPORT**

Steve Wolfson updated the committee on the progress of the workgroup. The workgroup has met twice since the last DRC meeting and additional changes to the draft proposal were made. The most recent legislative draft of the custody statute rewrite is presented to the committee for review today as the updated “yellow” version.

### **DISCUSS “YELLOW” VERSION OF CUSTODY REWRITE**

Senator Gray led discussion on the “yellow” version of the proposed custody statute. Steve Wolfson made the following motion:

**MOTION:** To insert “unilaterally” into line 37, page 4, of the “yellow” version as discussed.  
**SECOND:** Motion seconded by Grace Hawkins.  
**VOTE:** 17-0-1.

Grace Hawkins made the following motion:

**MOTION:** To strike the final sentence beginning on page 2, lines 19 through 21, and insert a period after the word “care.”  
**SECOND:** Motion seconded by Judge Bluff.  
**VOTE:** Passed unanimously.

During extended discussion, there was concern expressed regarding the coercive control definition, specifically, the number of factors it contains, and the language “discernable pattern.” Some members found it ambiguous and preferred a more concise definition, such as Oklahoma’s statute, to provide clearer direction to courts and pro pers. Attention was also directed to the language on sanctions for false allegations. It was noted that the court does not have the jurisdiction to impose punishment for false allegations and a provision to impose attorney’s fees is already in place.

Following discussion, Senator Gray indicated there is still work to be done on the proposal before moving it to the legislature. Another member stated a delayed effective date should be considered to allow time for judicial training. She recommended the DRC meet again in January 2012 to continue its review of the draft proposal.

### **CALL TO THE PUBLIC**

Several members of the public were present to address the committee.

Gerald Chirnomas spoke regarding supervised visitation facilities.

Marissa Prins Verburg discussed supervised visitation facilities.

Thomas Verburg made statements regarding supervised visitation facilities.

Brent Miller made comments regarding A.R.S. § 25-320 and the proposed custody revisions.

Michael Espinoza addressed the proposed custody rewrite.

Lindsay Simmons spoke regarding coercive control and the custody statute.

Timothy Frank discussed A.R.S. § 25-320(D)(3).

Joi Davenport made comments regarding the proposed custody rewrite.

Crystal Stapley spoke about the coercive control concept in the proposed custody statute.

**ADJOURN**

The meeting was adjourned at 1:00pm.

**NEXT MEETING:**

January 13, 2012

10:00am to 2:00 pm

Conference Room 119 A/B

State Courts Building

1501 W. Washington

Phoenix, AZ 85007